

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

EDWARD R. COSS, JR.,	:	CIVIL ACTION NO. 1:01-CV-00878
	:	
	:	
Petitioner,	:	(Judge Caldwell)
	:	
	:	(Magistrate Judge Blewitt)
v.	:	
	:	
JAMES P. MORGAN, et al.,	:	
	:	
Respondents	:	

MOTION FOR ENLARGEMENT OF TIME TO FILE A REPLY BRIEF

Respondents, through their undersigned counsel and pursuant to LR 7.1, move the Court, upon the grounds set forth for an Order enlarging the time within which Respondent's Reply Brief, a copy of which is appended hereto, may be filed

In support of such motion, Respondents inform the Court as follows:

1. On or about December 19, 2004 Petitioner respectively filed the following briefs:

a. *Petitioner's Response to Respondents' Supplemental Memorandum of Law*, served by mail on December 12, 2004, and

b. *Petitioner's Supplemental Response to Respondents' Supplemental Memorandum*, served by mail on December 13, 2004.

2. Under the provisions of LR 7.7, with due allowance for five additional days following service by mail, any reply brief would have been due not later than December 28, 2004

3. Promptly upon receipt of such briefs counsel determined that a reply brief, as authorized by LR 7.7 was warranted and that in order to properly frame such reply brief detailed reference would be required to recent portions of the Lackawanna County state court file of Commonwealth v. Coss, Case No. 86-CR-645. However, upon inquiry at the office of the Lackawanna County Clerk of Courts it was determined that the court file of Case No. 86-CR-645 had been transmitted to the Superior Court of Pennsylvania in connection with an appeal filed by Edward Coss. Moreover, although such appeal had been discontinued in early December, 2004, the court file had not yet been returned from the Superior Court to the Lackawanna County Clerk of Courts.

4. It was not until January 3, 2005 that counsel for respondents was able to gain access to the required portions of the Lackawanna County state court file of Commonwealth v. Coss, Case No. 86-CR-645. Seasonably thereafter, and as expeditiously as was possible counsel undertook preparation of the reply brief, a

proposed copy of which is hereto appended.

5. The matters argued in the appended reply brief touch upon questions of strong significance that should be considered by the Court in resolution of the instant proceedings.

WHEREFORE, respondents request entry of an order authorizing the tardy filing of the appended reply brief.

Respectfully submitted, January 5, 2005.

s/ William P. O'Malley
William P. O'Malley ,Atty. I.D. # 58520
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Lackawanna County Courthouse
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Scranton, PA 18503
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CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2005, I am serving a copy of the foregoing:

Motion for Enlargement of Time to File a Reply Brief, upon Petitioner,

Mr. Edward R. Coss #CB5970

SCI Dallas

1000 Follies Road

Dallas, PA 18612

by prepaid first class U.S. Mail,

s/ William P. O'Malley

William P. O'Malley

Assistant District Attorney